IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 21838 of 2004

Between:

S. Nageswar Rao, S/o. Mallaiah,
Vigilance and Anti Power Theft Squad, A.P. Southern Other power

Distribution Company Ltd., Ongole.

..... PETITIONER

AND

1. The Inspector General of Police, Warangal Range, Warangal-506 002.
2 The Superintendent of Police, Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the order in O.A.No.6706/2001 dt. 7.9.2004 on the file of the A.P. Administrative Tribunal, Hyd wherein conformed the order of the 2nd respondent vide C.No.50/Addl. SP/KM/99 Dt. 29.10.1999 as affirmed by the 1st respondent Dt. 23.5.2000 and quash the same declaring as bad, and contrary to the facts and law.

Counsel for the Petitioner:MS.M.VIDYAVATHI

Counsel for the Respondents : GP FOR HOME

The Court made the following :

ORDER:(Per the Hon'ble Sri Justice G.Bikshapthy)

This Writ Petition has been filed challenging the order dated 7-9-2004 in O.A.No. 6706 of 2001 passed by the A.P. Administrative Tribunal, Hyderabad.

2. The petitioner is applicant before the Tribunal. He was working as Sub-Inspector of Police. When he was working under the control of the Superintendent of Police, Khammam, a report of the Superintendent of Police was communicated to the petitioner, styling it as adverse report, through communication dated 29-10-1999 in which, it is stated thus;

> *"He needs to improve his public relations, investigation standards and overall performance."*

3. Aggrieved by the said adverse remarks, the petitioner filed an appeal before the Inspector General of Police, Warangal Range and the same was also rejected by order dated 23-5-2000. Against the said order the petitioner filed O.A.No.6706 of 2001 before the Tribunal. The Tribunal after considering the matter refused to interfere with the impugned order and dismissed the same by order dated 7-9-2004, against which the present writ petition has been filed.

4. The learned counsel for the petitioner submits that the remarks so recorded by the Superintendent of Police are unwarranted. He also submits that there is no recorded evidence or supporting material to indicate such deficiencies of services of the officer. Though, in the counter it is stated that the petitioner failed to discharge

certain duties for which, a memo was issued on 17-2-1999, we do not find any record to show that such a memo was issued. Be that as it may, the learned counsel for the petitioner further submits that at the time when case of the petitioner being taken up for promotion, sending of such remarks against the petitioner will adversely effect his interest. Hence, the order of the Tribunal is liable to be set aside.

5. On the other hand, the learned Government Pleader submits that the petitioner approached the Court purely on apprehension and there is no record to show that the so called adverse remarks are being taken into consideration for the purpose of denying promotion to the petitioner. Therefore, he submits that the writ petition is liable to be dismissed.

6. The only aspect that falls for consideration is whether the remarks noted by the Superintendent of Police in the ACR of the officer for the year ending 31-3-1999 could be categorized as “adverse remarks”.

7 . The remarks communicated by the Superintendent of Police, in our opinion cannot fall within the category of adverse remarks. It is not as if the Officer was graded below average, poor or his performance is abysmally low. But, the remarks made are in the nature of advice for future guidance of the officer to improve himself. This aspect of the matter was not considered by the appellate authority and rejected the same on the ground that there is no cause for interference.

8. Under these circumstances, we find that the very communication of the remarks styling them as ‘adverse remarks’ is wholly unwarranted. The Tribunal has also not taken into consideration this aspect of the matter and dismissed the O.A.

9. Accordingly, the memo dated 17-2-1999 is quashed. The order of the Tribunal passed in O.A.No.6706 of 2001 is set aside. Writ Petition is allowed. No order as to costs.

G.Bikshapathy, J.

P.S.Narayana, J.

1st March, 2005.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Inspector General of Police, Warangal Range, Warangal-506 002.
2. The Superintendent of Police, Khammam.

3. 2 CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT)

4. 2 CD copies

THE HONOURABLE SRI JUSTICE G.BIKSHAPATHY

AND

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

W.P.No. 21838 OF 2004

1st March, 2005